

Honorable Mary Jo Heston
Misc. Proceeding

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE
WESTERN DISTRICT OF WASHINGTON**

UNITED STATES TRUSTEE

Plaintiff,

v.

THOMAS MCAVITY, and NORTHWEST
DEBT RELIEF LAW FIRM,

Defendants.

Misc. P. No. 20-00400-MJH

PLAINTIFF UNITED STATES TRUSTEE'S
FIRST INTERROGATORIES AND
REQUESTS FOR PRODUCTION TO
DEFENDANT THOMAS MCAVITY

Acting United States Trustee for Region 18, Gregory M. Garvin ("U.S. Trustee"), hereby serves and propounds the following interrogatories and requests for production to the Defendant in the above-captioned Miscellaneous Proceeding Thomas McAvity (hereinafter "Defendant" or "You") pursuant to Fed. R. Civ. P. 26, 33 and 34, as incorporated by Fed. R. Bankr. P. 7026, 7033, and 7034, and Local Bankruptcy Rule 7026-1. You are required, within 30 days after the date of service hereof, to (1) serve the United States Trustee's counsel with a separate, written answer to each interrogatory given under oath, and (2) produce copies of the Documents and Communications (defined below) requested herein to the Office of the U.S. Trustee, 700 Stewart Street, Suite 5103, Seattle, WA 98101-1271 or electronically via email to matthew.j.johnson@usdoj.gov. The Federal Rules of Bankruptcy Procedure, Federal Rules of Civil Procedure, and governing case law establish Your duties in responding to these requests.

UNITED STATES TRUSTEE'S
INTERROGATORIES AND REQUESTS FOR
PRODUCTION

Office of the United States Trustee
700 Stewart St., Suite 5103
Seattle, WA 98101-1271
Phone: 206-553-2000,
Fax: 206-553-2566

1 You must supplement Your answers to these requests as provided by Fed. R. Civ. P. 26(e) as
2 incorporated by Fed. R. Bankr. P. 7026. The Instructions and Definitions set forth below do not
3 limit Your duties in responding to these discovery requests.

4 DEFINITIONS

5 1. “You” and “Your” means the natural persons known as Thomas McAvity, the
6 Defendant in the above-captioned miscellaneous proceeding, and his Representatives.

7 2. “Miscellaneous Proceeding” means the above-captioned case, U.S. Bankruptcy Court
8 for the Western District of Washington Case No. 20-00400-MJH.

9 3. “Amendment” means any amended version of a Schedule or SOFA.

10 4. “Answer” means the Defendants’ Answer filed in the Miscellaneous Proceeding.

11 5. “Cases” means In re Ulibarri, filed under case number 20-40048-MJH in the Western
12 District of Washington; In re Ross, filed under case number 20-40064-MJH, in the Western
13 District of Washington; In re Atalig, filed under case number 20-40145-MJH filed in the Western
14 District of Washington; In re Cary, filed under case number 19-14667-MLB in the Western District
15 of Washington; and In re Zimmerman, filed under case number 20-10082-CMA in the Western
16 District of Washington.

17 6. “Chapter 7 Case” or “Chapter 7 Cases” means a case filed by You or Northwest Debt
18 Relief Law Firm under Title 11, chapter 7, of the United States Code in the United States
19 Bankruptcy Court of the Western District of Washington.

20 7. “Communications” means any form of communication between or among any persons
21 for which there is any record, including letters, facsimiles, emails, text messages, messages sent
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1 or received through any form of messaging application, notes of conversations or phone calls, or
2 recordings of same.

3 8. "Complaint" means the Complaint filed against You as Defendant, commencing the
4 Miscellaneous Proceeding.

5 9. "Describe" means to state every fact within Your knowledge, or that of Your
6 Representative(s), relating to the matter inquired about.

7 10. "Document," "Documents," or "Documentation" means any and all written, printed,
8 typed, scanned, or otherwise recorded matter, however produced or reproduced, and whether
9 existing electronically or in hard copy, of every kind and description, in whatever form (e.g., final
10 and draft versions), that are within the scope of Rule 34(a) of the Federal Rules of Civil Procedure,
11 as incorporated by Rule 7034 of the Federal Rules of Bankruptcy Procedure, including, without
12 limitation, all "writings," "recordings," or "photographs" as such terms are defined in Rule 1001
13 of the Federal Rules of Evidence, that are in Your or Your Representative's actual or constructive
14 possession, custody, care or control. To the extent that a Document is not printed on paper and is
15 capable of being copied, You must provide a printed copy of the Document or provide access to
16 the storage device to allow inspection and copying of the Document. As defined above, the term
17 Document includes all electronic transmissions, e.g., emails and attachments thereto.

18 11. "Identify" with respect to a natural person means to state the person's full name and
19 best contact information available for them.

20 12. "Post-Petition Fee Agreement" or "Post-Petition Fee Agreements" means a fee
21 agreement signed by a debtor or debtors after the filing of a petition in their case.
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1 13. "Related to" or "relating to" means evidencing, memorializing, pertaining, involving
2 or referring in any way, in whole or in part, to the subject matter referred to in this request.

3 14. "Representative" means and includes any and all agents, employees, servants, officers,
4 directors, attorneys, accountants and consultants who act or have acted on Your behalf.

5 15. "Sample Period" means the period of time between January 1, 2019, until the filing of
6 the Complaint.

7 16. "Schedule" means a schedule of assets or liabilities filed in a bankruptcy case in U.S.
8 Bankruptcy Court on an official form for filing such schedule.

9 17. "SOFA" means a Statement of Financial Affairs filed in a bankruptcy case in U.S.
10 Bankruptcy Court on an official form for filing such statement.

11 18. Additional terms may be defined in the requests below.
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1 **INTERROGATORIES**

2 1. Identify each person assisting You in responding to these Interrogatories and Requests
3 for Production.

4 ANSWER
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8 2. Identify each person who may have information Relating to the allegations in the
9 Complaint and/or Your responses in the Answer.

10 ANSWER
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15 3. Identify all debtors, including names and case numbers, who owed any money to You,
16 directly or through Northwest Debt Relief Law Firm, at the time of the filing of the Complaint and
17 the amounts owed by each debtor(s).

18 ANSWER
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1 4. Identify all debtors, including names and case numbers, who were in default of any
2 money owed to You, directly or through Northwest Debt Relief Law Firm, at the time of the filing
3 of the Complaint, and the amount of the default.

4 ANSWER
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8 5. For each account receivable generated by a Post-Petition Fee Agreement during the
9 Sample Period, Describe Your and Northwest Debt Relief Law Firm's efforts to collect on each
10 debt.

11 ANSWER
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15 6. Describe the role of Mark Ditton within Northwest Debt Relief Law Firm during the
16 Sample Period.

17 ANSWER
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1 7. Identify all employees or staff members of Northwest Debt Relief Law Firm or You
2 individually, with their titles, responsibilities, and hourly billing rate.

3 ANSWER
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7 8. Identify all Chapter 7 Cases, including but not limited to the Cases, in which You have
8 used either a bifurcated fee model or a bifurcated financing model within the Sample Period.

9 ANSWER
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13 9. Identify the dates when You, Northwest Debt Relief Law Firm or someone in Your
14 office, met with the debtors in the Cases, either over the phone, in person, or virtually.

15 ANSWER
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1 10. Identify the purpose of each meeting with the debtors in the Cases listed in response to
2 Interrogatory No. 9 and the person who met with the debtor(s).

3 ANSWER
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7 11. For the Cases, Describe (A) the dates that any services were rendered, (B) the identity
8 of the person who performed the services, (C) the hourly rate of such individual, (D) a detailed
9 description of the service rendered and the time spent performing the service, and (E) a statement
10 of the total time spent on each of the Cases.

11 ANSWER
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15 12. Describe the expenses incurred in the Cases, including (A) the date the expense was
16 incurred; (B) a description of the expense; (C) the amount of the expense; and (D) the necessity of
17 the expense.

18 ANSWER
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1 13. For all websites identified in the Complaint, as such websites existed on the date of the
2 Complaint, Identify where such websites contained a clear and conspicuous statement as required
3 by 11 U.S.C. § 528(a)(4).

4 ANSWER
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8 14. If the statement required by 11 U.S.C. § 528(a)(4) was not present on any of the
9 websites identified in the Complaint on the date of the filing of the Complaint, Describe why such
10 statement was not present.

11 ANSWER
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15 15. Describe the compensation or reimbursement paid to Ms. Rochelle Shuffield and any
16 other attorney who is not a regular associate of You or Northwest Debt Relief Law Firm for their
17 appearance at the section 341 meetings in either the Cases or any other Chapter 7 Case filed within
18 the Sample Period.

19 ANSWER
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1 16. Identify all social media accounts used by You or Northwest Debt Relief Law Firm to
2 advertise bankruptcy or debt relief services during the Sample Period.

3 ANSWER
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7 17. For each of the Cases, Describe Your and Northwest Debt Relief Law Firm's intake
8 process for screening and spotting issues for new and potential clients.

9 ANSWER
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13 18. For each of the Cases, Describe all criteria used by You to determine if a bifurcated fee
14 agreement, where the entire attorney's fee is not paid prior to the filing of a petition, was
15 appropriate.

16 ANSWER
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1 19. Identify any other business entities, including, but not limited to, other law firms, in
2 which You have an interest.

3 ANSWER
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7 20. Identify all Documents relied upon on to answer the Interrogatories.

8 ANSWER
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12 **REQUESTS FOR PRODUCTION**

13 1. Produce “wet ink” copies of all Fee Agreements for all Chapter 7 Cases filed by You
14 or Northwest Debt Relief Law Firm in the Sample Period.

15 ANSWER:
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17 2. Produce all Documents and Communications Related to any contracts Defendants have
18 or have had with third parties Related to collection of money owed by debtors in any Chapter 7
19 Case filed within the Sample Period.

20 ANSWER
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1 3. Produce all Communications to or from a debtor and You Related to the collection of
2 accounts receivable generated by post-petition fee agreements, for all Chapter 7 Cases filed within
3 the Sample Period, including, but not limited to the Cases, and including, but not limited to any
4 collection or dunning letters sent by You, and any correspondence to You complaining about the
5 fees, or disputing or attempting to negotiate the fees.

6 ANSWER
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8 4. Produce copies of all advertising materials used by Defendants, or through any other
9 entity that provides bankruptcy or other legal services that the Defendants use or control, or for
10 which any of the Defendants are a member or partner, with the exception of UpRight Law, during
11 the Sample Period, including emails, direct mailings, flyers, websites, recorded messages, text
12 messages, television advertisements, radio advertisements, billboard advertisements, or any other
13 Document or Communication used to advertise bankruptcy or other legal services.

14 ANSWER
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16 5. Produce any Documents demonstrating any indemnification agreements between You
17 and Fresh Start Funding, LLC, that relate to the Miscellaneous Proceeding.

18 ANSWER
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6. For all Chapter 7 Cases filed within the Sample Period, excluding any cases filed on behalf of UpRight Law, LLC, produce copies of the “wet ink” petitions, schedules, and statement of financial affairs, including both the debtor(s)’ signature and the attorney’s signature; copies of the notice required by 11 U.S.C. § 342(b)(1) that was given to the debtor(s) including evidence of when such notice was given to the debtor(s); copies of the notice required by 11 U.S.C. § 527(1)(2) that was given to the debtor(s) including evidence of when such notice was given to the debtor(s); copies of the notice required under 11 U.S.C. 527(b) that was given to the debtor(s) including evidence of when such notice was given to the debtor(s); copies of the original signed Amendments, if any, to the Schedules and SOFA or other Documents; and evidence of when Defendants first met or communicated with the debtors and began bankruptcy assistance services.

ANSWER

7. Produce copies of all Documents showing that Northwest Debt Relief Law Firm was a separate legal entity at all relevant times in the Sample Period.

ANSWER

8. Produce all Documents, time logs, billing histories, or other Documents or Communications that show when work was performed on the Cases and all Chapter 7 Cases filed in the Sample Period, excluding cases filed on behalf of UpRight Law, LLC.

ANSWER

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1 9. Produce copies of all canceled checks received by Defendants from debtors for the
2 legal services provided by Defendants for the Cases and all Chapter 7 Cases filed in the Sample
3 Period, excluding any cases filed on behalf of UpRight Law, LLC. Please redact in accordance
4 with Rule 9037.

5 ANSWER
6

7 10. Produce all debit or credit card transaction histories evidencing payments made by the
8 debtors in the Cases and all Chapter 7 Cases filed in the Sample Period, excluding any cases filed
9 under UpRight Law, LLC. Please redact in accordance with Rule 9037.

10 ANSWER
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12 11. Produce all cash receipts for payments made by the debtors in the Cases and all Chapter
13 7 Cases filed in the Sample Period, excluding any cases filed under UpRight Law, LLC.

14 ANSWER
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16 12. Produce copies of all fee agreement templates used by Defendants during the Sample
17 Period.

18 ANSWER
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13. Produce all bills and invoices sent to the debtors in the Cases and any Chapter 7 Case filed in the Sample Period, excluding any cases filed on behalf of UpRight Law, LLC.

ANSWER

14. Produce all Documents and Communications pertaining to Defendants receipt of funds from the debtors in the Cases and any Chapter 7 Case filed in the Sample Period, excluding any cases filed on behalf of UpRight Law, LLC, including, but not limited to receipts, ledgers, and correspondence regarding the same.

ANSWER

15. Produce all Documents and Communications pertaining to Defendants transfer or sale to a third party of any claim held by Defendants against debtors in any Chapter 7 Case filed in the Sample Period.

ANSWER

16. Produce all contracts and agreements Defendants have, or have had, with any third party Related to collection of money owed by debtors in any Chapter 7 Case filed within the Sample Period.

ANSWER

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1 Dated this 6th Day of October

2 Gregory M. Garvin
3 Acting United States Trustee for Region 18

4 /s/ Matthew J.P. Johnson

5 Matthew J.P. Johnson, WSBA #40476
6 Attorney for the United States Trustee

7 ATTORNEY CERTIFICATION

8 I, Daniel Garrison, hereby certify that the above ANSWERS and RESPONSES comply with
9 Federal Rule of Civil Procedure 26(g).

10 Dated: _____, 2020.

11 Daniel Garrison, AZ Bar #021495

12 Admitted *Pro Hac Vice*

13 Attorney for Thomas McAvity and Northwest Debt Relief Law Firm

14 VERIFICATION

15 The undersigned, Thomas McAvity, Defendant in this adversary case, hereby certify that I have
16 read the foregoing Interrogatories and Requests for Production and the answers and responses
17 thereto, and the answers and responses are true, correct, and complete to the best of my knowledge
18 and belief.

19 I certify under penalty of perjury that the foregoing is true and correct.

20 Executed on _____, 2020.

21 Thomas McAvity
22 Defendant

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1 DATED this Tuesday, October 27, 2020,

2 Respectfully submitted,

3 Gregory M. Garvin
4 Acting U.S. Trustee for Region 18

5 /s/ Matthew J.P. Johnson
6 Matthew J.P. Johnson, WSBA #40476
7 Attorney for the United States Trustee
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